

REMARKS

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

In response to the Restriction Requirement, Applicants hereby elect the claims of Group II (including claims 3-7, 9, 10, 12, 13, 46, 48, and 57), drawn to polynucleotides of SEQ ID NO:2, polynucleotides encoding polypeptides of SEQ ID NO:1, host cells, microarrays, and a method of producing a polypeptide, with traverse.

Claims directed to methods of using the claimed polynucleotides and microarrays for detecting a target polynucleotide by hybridization or PCR (i.e., claims 14-16), for screening a compound for effectiveness in altering expression of a polynucleotide (i.e., claim 28), for assessing toxicity of a test compound (i.e., claim 29), and for generating a transcript image of a sample (i.e., claim 47), could and should be examined together with the product claims from which they depend, per the Commissioner's Notice in the Official Gazette of March 26, 1996, entitled "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and 35 U.S.C. § 103(b)" which sets forth the rules, upon allowance of product claims, for rejoinder of process claims covering the same scope of products. Applicants presume these method claims will be rejoined, upon determining allowability of the product claims from which they depend.

It is also submitted that claim 1, drawn to polypeptides of the invention, could be examined along with the polynucleotide claims without undue burden on the Examiner. A search for prior art to determine the novelty of the polynucleotides would substantially overlap with a search of the prior art to determine the novelty of the polypeptides encoded by the polynucleotides.

Applicants reserve the right to prosecute non-elected subject matter in subsequent divisional applications.

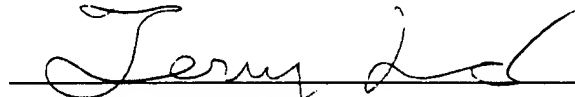
If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned at (650) 621-8581.

If the USPTO determines that any additional fees are due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,
INCYTE GENOMICS, INC.

Date:

June 27, 2002



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Limited Recognition (37 C.F.R. § 10.9(b)) attached
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

The paragraph immediately following the title has been amended as follows:

This application is a divisional application of U.S. application Ser. No. 09/391,958, filed September 8, 1999, which issued on December 4, 2001 as U.S. Patent No. 6,326,207, entitled [NOVEL] HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER, which is a divisional application of U.S. application Ser. No. 08/805,118, filed February 24, 1997, which issued on November 16, 1999 as U.S. Patent No. 5,985,604, entitled HUMAN SODIUM-DEPENDENT PHOSPHATE COTRANSPORTER. Both of these applications are hereby expressly incorporated by reference herein.

IN THE CLAIMS:

Claim 11 has been canceled, without prejudice or disclaimer.

Claims 1, 3-5, 13, and 57 have been amended as follows:

1. (Once Amended) An isolated polypeptide encoded by a polynucleotide of claim 3 [selected from the group consisting of:
- a) a polypeptide comprising the amino acid sequence of SEQ ID NO:1,
 - b) a polypeptide comprising a naturally occurring amino acid sequence at least 90% identical to the amino acid sequence of SEQ ID NO:1,
 - c) a biologically active fragment of a polypeptide having the amino acid sequence of SEQ ID NO:1, and
 - d) an immunogenic fragment of a polypeptide having the amino acid sequence of SEQ ID

NO:1].

3. (Once Amended) An isolated polynucleotide encoding a polypeptide selected from the group consisting of:

- a) a polypeptide comprising the amino acid sequence of SEQ ID NO:1,
- b) a polypeptide comprising a naturally occurring amino acid sequence at least 90% identical to the amino acid sequence of SEQ ID NO:1,
- c) a [biologically active] fragment of a polypeptide having the amino acid sequence of SEQ ID NO:1, wherein said fragment transports phosphate, and
- d) an immunogenic fragment of a polypeptide having the amino acid sequence of SEQ ID NO:1.

4. (Once Amended) An isolated polynucleotide of claim 3, encoding a polypeptide [of claim 2] comprising the amino acid sequence of SEQ ID NO:1.

5. (Once Amended) An isolated polynucleotide of claim [4] 3, comprising the polynucleotide sequence of SEQ ID NO:2.

13. (Once Amended) An isolated polynucleotide comprising at least [60] 20 contiguous nucleotides of a polynucleotide [of claim 12] selected from the group consisting of:

- a) a polynucleotide comprising the polynucleotide sequence of SEQ ID NO:2,
- b) a polynucleotide comprising a naturally occurring polynucleotide sequence at least 90% identical to the polynucleotide sequence of SEQ ID NO:2,
- c) a polynucleotide complementary to a polynucleotide of a),
- d) a polynucleotide complementary to a polynucleotide of b), and
- e) an RNA equivalent of a)-d).

57. (Once Amended) A polynucleotide of claim 12, selected from the group consisting of:
- a) a polynucleotide comprising the polynucleotide sequence of SEQ ID NO:2,
 - b) a polynucleotide comprising a naturally occurring polynucleotide sequence at least 95% identical to the polynucleotide sequence of SEQ ID NO:2,
 - c) a polynucleotide complementary to a polynucleotide of a),
 - d) a polynucleotide complementary to a polynucleotide of b), and
 - e) an RNA equivalent of a)-d).

New claim 58 has been added as follows:

58. (New) An isolated polynucleotide of claim 13, comprising at least 60 contiguous nucleotides of a polynucleotide selected from the group consisting of:
- a) a polynucleotide comprising the polynucleotide sequence of SEQ ID NO:2,
 - b) a polynucleotide comprising a naturally occurring polynucleotide sequence at least 90% identical to the polynucleotide sequence of SEQ ID NO:2,
 - c) a polynucleotide complementary to a polynucleotide of a),
 - d) a polynucleotide complementary to a polynucleotide of b), and
 - e) an RNA equivalent of a)-d).